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Mr. Corbin R. Davis
Clerk
Michigan Supreme Court
P.O. Box 30052
Lansing, MI 48909

Re: Proposed Amendment to MRE 703

Dear Mr. Davis:

I believe Amendment to MRE 703 will create more problems than it will solve. Alternative A is worse than alternative B. However, the current rule is better than both. Let me give you just three examples of where the new rules would be problematic:

I practice personal injury law. We often bring in to court an expert on life care planning. That expert bases his opinion on the cost of various goods and services by making a series of phone calls. Defendant's expert will challenge plaintiff's expert if one of the costs are particularly out of line. However, to require that the expert opinion on the cost of goods and services be "admissible", may prove impossible and, at the very least, will greatly increase litigation costs.

Similarly, defendants often bring experts into court to say that "Based on such and such a study, I believe plaintiff's expert is wrong." The data within the study is hearsay. The conclusions of the author are not admissible. Does the new rule mean that physicians may no longer rely on inadmissible textbook evidence and medical studies as a basis for their opinion?

De bene esse depositions are often taken before trial. The physicians will rely on testimony given in depositions which are not admitted into evidence. What if Defendant's expert relies on a statement given by one of plaintiff's family members. If the family member later comes into court and "clarifies" the prevailing statement, do the doctor's conclusions become inadmissible if they are based on an inadmissible deposition of a family member? This would seem to be an absurd result and yet, a natural conclusion of the literal language of the either proposed alternative to MCR 7.03.

In short, I see many problems being created. I have never in 20 years of practice had a problem with the current MRE 703. I can picture it becoming a daily problem if the rule is changed creating great uncertainties and absurd results.

Sincerely,



Steven E. Goren.
SEG/llh

